

Case 1:16-cv-00917-RJL Document 8 Filed 11/16/16 Page 1 of 2

TJS

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JESUS BADAL,

Plaintiff,

v.

LASER SPINE INSTITUTE, et al.,

Defendants.

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Civil Action No. 16-917 (RJL)

FILED

NOV 16 2016

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

ORDER

November 15, 2016 [Dkt. #3]

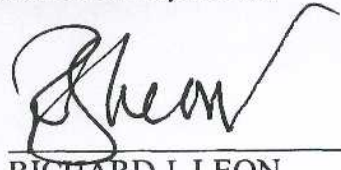
Before the Court is defendants' Motion to Dismiss [Dkt. #3] in which they argue, *inter alia*, that plaintiff cannot bring this medical malpractice lawsuit in the District of Columbia, citing the fact that the procedure took place in the Eastern District of Pennsylvania. Defendants ask the Court to dismiss for lack of personal jurisdiction over the defendants or, in the alternative, because plaintiff did not meet the local statutory requirements for bringing medical malpractice challenges in the District of Columbia. Plaintiff's opposition to the motion to dismiss [Dkt. #6] admits that the case should have been brought in the Eastern District of Pennsylvania, where, it argues, neither of those grounds for dismissal would apply. It requests the Court transfer the case to that district in accordance with 28 U.S.C. § 1406 and in the interest of justice. I agree with plaintiff that justice so dictates when, as here, threshold arguments for dismissal are rendered inapplicable after transfer.

Case 1:16-cv-00917-RJL Document 8 Filed 11/16/16 Page 2 of 2

Accordingly, it is

ORDERED that this case be **TRANSFERRED**, in the interest of justice, to the United States District Court for the Eastern District of Pennsylvania.

SO ORDERED.



RICHARD J. LEON
United States District Judge

District of Columbia live database

Page 1 of 3

TJS

CLOSED,JURY,TRANSFER-OUT,TYPE-B

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:16-cv-00917-RJL**

16

6242

BADAL v. LASER SPINE INSTITUTE et al
Assigned to: Judge Richard J. Leon
Demand: \$250,000
Cause: 28:1332 Diversity-Medical Malpractice

Date Filed: 05/13/2016
Date Terminated: 11/16/2016
Jury Demand: Plaintiff
Nature of Suit: 362 Personal Inj. Med.
Malpractice
Jurisdiction: Diversity

Plaintiff

JESUS BADAL

represented by **Robert Wiley King**
ROBERT W. KING, ATTORNEY AT
LAW
530 Baltimore Avenue
Unit 210
Hyattsville, MD 20781
(301) 699-1340
Fax: (301) 699-1245
Email: bobking@silverkinglaw.com
ATTORNEY TO BE NOTICED

V.

Defendant

LASER SPINE INSTITUTE

represented by **Thomas L Doran**
DECARO, DORAN, SICILIANO,
GALLAGHER & DEBLASIS, LLP
17251 Melford Boulevard
Suite 200
Bowie, MD 20715
(301) 352-4957
Fax: (301) 352-8691
Email: tdoran@decarodoran.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

KEITH GIRTIN

represented by **Thomas L Doran**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

ERIC FINKELSTEIN

represented by **Thomas L Doran**

District of Columbia live database

Page 2 of 3

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/13/2016	<u>1</u>	COMPLAINT against ALL DEFENDANTS with Jury Demand (Fee Status:Filing Fee Waived) filed by JESUS BADAL. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons)(King, Robert) (Entered: 05/13/2016)
05/16/2016		Case Assigned to Judge Richard J. Leon. (md) (Entered: 05/16/2016)
05/16/2016		Filing fee Paid: \$ 400, receipt number 461607662. (md) (Entered: 05/16/2016)
05/17/2016	<u>2</u>	SUMMONS (3) Issued Electronically as to ERIC FINKELSTEIN, KEITH GIRTIN, LASER SPINE INSTITUTE. (Attachments: # <u>1</u> Notice of Consent) (md) (Entered: 05/17/2016)
09/02/2016	<u>3</u>	MOTION to Dismiss for Lack of Jurisdiction by ERIC FINKELSTEIN, KEITH GIRTIN, LASER SPINE INSTITUTE (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Doran, Thomas) (Entered: 09/02/2016)
09/26/2016	<u>4</u>	STATUS REPORT <i>Regarding Pending Motion to Dismiss</i> by LASER SPINE INSTITUTE. (Doran, Thomas) (Entered: 09/26/2016)
10/11/2016	<u>5</u>	ORDER: It is hereby ordered that plaintiff shall within 14 days of this order show cause in writing why the action should not be dismissed for failure to prosecute pursuant to Local Rule 83.23. Signed by Judge Richard J. Leon on 10/07/16. (tb) (Entered: 10/11/2016)
10/21/2016	<u>6</u>	RESPONSE re <u>3</u> MOTION to Dismiss for Lack of Jurisdiction filed by JESUS BADAL. (Attachments: # <u>1</u> Text of Proposed Order)(King, Robert) (Entered: 10/21/2016)
11/04/2016	<u>7</u>	REPLY to opposition to motion re <u>3</u> MOTION to Dismiss for Lack of Jurisdiction <i>and Reply to Answer to Show Cause Order</i> filed by LASER SPINE INSTITUTE. (Doran, Thomas) (Entered: 11/04/2016)
11/16/2016	<u>8</u>	ORDER TRANSFERRING CASE to the United States District Court for the Eastern District of Pennsylvania. SEE ORDER FOR FULL DETAILS. Signed by Judge Richard J. Leon on 11/16/16. (tb) (Entered: 11/16/2016)
11/28/2016		Case transferred to the United States District Court for the Eastern District of Pennsylvania, pursuant to Court Order entered 11/16/2016. Sent to Court by extraction. (jf) (Entered: 11/28/2016)
11/28/2016	<u>9</u>	NOTICE of Extraction of case transferred to United States District Court for the Eastern District of Pennsylvania (jf) (Entered: 11/28/2016)

PACER Service Center

District of Columbia live database

Page 3 of 3

Transaction Receipt			
11/30/2016 09:25:08			
PACER Login:	ue0496:4286791:0	Client Code:	
Description:	Docket Report	Search Criteria:	1:16-cv-00917-RJL
Billable Pages:	2	Cost:	0.20

Transfer from the District of Columbia → 11/28/16

UNITED STATES DISTRICT COURT

16-cv-6242

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 620 Raleigh Place, Washington, DC 20012 6242

Address of Defendant: Tampa, Florida; Wayne, PA

Place of Accident, Incident or Transaction: Wayne, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY: _____

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) *Medical Malpractice*
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, _____, counsel of record do hereby certify:
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 - ☐ Relief other than monetary damages is sought.

DATE: _____ Attorney-at-Law _____ Attorney I.D.# _____

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/28/16

Steve Tomas
Attorney-at-Law

Deputy Clerk
Attorney I.D.#

CIV. 609 (5/2012)

NOV 28 2016

TJS

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Jesus Badal

CIVIL ACTION

v.

Laser Spine Institute

NO.

16

6242

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

11/28/16
Date

Steve Tomas
Attorney-at-law

Deputy Clerk
Attorney for

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

NOV 28 2016

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.